

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

DEC 12 2008

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

Alexander Ocasio #83401)
Ely State Prison)
P.O. Box 1989)
ELY, NEVADA 89301)
(Enter your full name, prison number
and address)

Case: 1:08-cv-02168
Assigned To : Sullivan, Emmet G.
Assign. Date : 12/12/2008
Description: Pro Se Gen. Civil

v.

James C. Duff, Director of the Administrative Office
of the U.S. Courts)
One Columbus Circle NE)
Washington, D.C. 20544)
(Enter the full name and address(es),
if know, of the defendant(s) in this
action)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

Instructions for filing a Complaint by a Prisoner
Under the Civil Rights Act, 42 U.S.C. § 1983

This packet contains one copy of a complaint form and one copy of an application to proceed *in forma pauperis*. To start an action, you must file an original and one copy of this complaint form.

Your complaint must be clearly handwritten or typewritten and you must sign and declare under penalty of perjury that the facts are correct. If you need additional space to answer a question, you may use another blank page.

Your complaint can be brought in this Court only if one or more of the named defendants is located within the District of Columbia. Further, you must file a separate for each claim that you have unless they are related to the same incident or problem. The law requires that you state only facts in your complaint.

You must supply a certified copy of your prison trust account, pursuant to the provisions of 28 U.S.C. §1915, effective April 26, 1996. The filing fee is \$350.00. If insufficient funds exist in your prison account at the time of filing your complaint, the court must access, and when funds exist, collect an initial filing fee equal to 20 percent of the greater of:

- (1) the average monthly deposits to your prison account, or
- (2) the average monthly balance of your prison account for the prior six-month period.

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Clerk, U.S. District and
Bankruptcy Courts

Thereafter, you are required to make monthly payments of 20% of the preceding month's income. The agency having custody over you must forward payments from your account to the clerk of the court each time the amount in the account exceeds \$10.00 until the filing fees are paid.

Therefore, before an assessment can be made regarding your ability to pay, you must submit a certified copy of your prison account for the prior six-month period.

When this form is completed, mail it and the copy to the Clerk of the United States District Court for the District of Columbia, 333 Constitution Ave., N.W., Washington, D.C. 20001.

I. SUCCESSIVE CLAIMS

Pursuant to the Prison Litigation Reform Act of 1995, unless a prisoner claims to be in "imminent danger of serious physical injury," he or she may not file a civil action or pursue a civil appeal *in forma pauperis* "if the prisoner has, on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or they failed to state a claim upon which relief could be granted."

II. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same or similar facts involved in this action? Yes () No (✓)
- B. Have you begun other lawsuits in state or federal court relating to your imprisonment? Yes () No (✓)
- C. If your answers to A or B is Yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit.

Plaintiffs: N/A

Defendants: _____

2. Court (If federal court, please name the district; if state court name the county.)

N/A

3. Docket number: N/A

4. Name of judge to whom case was assigned: N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) N/A

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

III. PLACE OF CONFINEMENT

ELY STATE PRISON ELY, NEVADA

A. Is there a prisoner grievance procedure in this institution? Yes (☒) No ()
If your answer is Yes, go to Question III B. If your answer is No, skip Questions III, B, C and D and go to Question III E.

B. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes () No (☒) NOT APPLICABLE TO PRISON

C. If your answer is Yes to Question III B:

1. To whom and when did you complain? N/A

2. Did you complain in writing? (Furnish copy of the complaint you made, if you have one.) Yes () No (☒) N/A

3. What, if any, response did you receive? (Furnish copy of response, if in writing.) N/A

4. What happened as a result of your complaint? N/A

D. If your answer is No to Question III B, explain why not. ISSUE NOT RELATED TO PRISON - NOT APPLICABLE

E. If there is no prison grievance procedure in the institution, did you complain to prison authorities? Yes () No () N/A

~~F. If your answer is Yes to Question III E,~~

N/A

1. To whom and when did you complain? N/A

2. Did you complain in writing? (Furnish copy of the complaint you made, if you have one.) Yes () No () N/A
3. What, if any response did you receive? (Furnish copy of response, if in writing.) N/A
4. What happened as a result of your complaint? N/A

IV. PARTIES

In item A below, place your name and prison number in the first blank and your present address in the second blank. Do the same for additional plaintiffs, if any.

- A. Name of Plaintiff: Alexander Ocasio #83401
Address: ELY STATE PRISON P.O. BOX 1989 ELY, NV. 89301

In item B below, place the full name of the defendant(s) in the first blank, their official position in the second blank, their place of employment in the third blank, and their address in the fourth blank. Do the same for additional defendants, if any.

- B. Defendant: JAMES C. DUFF
Director, Administration Office of the U.S. Courts
Address: Administration Office of the U.S. Courts
One Columbus Circle NE Washington, DC 20544

Defendant: N/A

Address: _____

Defendant: N/A

Address: _____

Defendant: N/A

Address: _____

V. STATEMENT OF CLAIM

State here briefly as possible the facts of your case. Describe how each defendant is involved. Include the names of other persons involved, dates, and places. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra sheets, if necessary.

No complaint and or grievance procedure exist within the U.S. Courts to hold the Clerks of the U.S. District Court for the District of Nevada And Clerks of the U.S. Court of Appeal for the Ninth Circuit Accountable for their Acts of misconduct related to the willful failure to record my transactions with the Court, for which said failures have materially affected my cases and have obstructed the fair, just, and expedient administration of justice. The Chief Judges at the Above Courts have not and will not respond to my letters Alleging the complaints; nor through the cases themselves is there any remedy found in the said district court or on Appeal to the said Appellate court, and

(See Attachment - continuation)

VI. RELIEF

State briefly exactly what you want the Court to do for you.

Declaratory and Injunctive Relief - to declare my right to Access to the Courts, due process, and equal protection of the laws And to order an injunction commanding the defendant to create and enact A legitimate Administrative grievance procedure concerning the Clerks of the Federal Courts that will justly adjudicate complaints of misconduct, that said grievance procedure numerically assign case numbers concerning each complaint of misconduct is And is reviewed, it appealed by complainant, by the Judicial Conference of the United States Courts.

Signed this 10th day of NOVEMBER, 2008.


(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

Nov. 10, 2008
(Date)


(Signature of Plaintiff)

IV - A

most importantly the defendant, who is the Director of the Administration Office of the U.S. Courts will not acknowledge receipt of my complaint letters or respond to them, where it is his responsibility to investigate such issues and discipline the said Clerks of the Court.

On March 13, 2007 the U.S. District Court of the District of Nevada dismissed a civil case I had brought # 2:06-CV-1187-JCM-RJT for failure to pay an initial partial filing fee of \$ 11.66 because the Clerk of that Court refused to and did not record the payment of \$ 12.00 sent on March 07, 2007 for the payment of the said fee from the Nevada Dept. of Corrections specifically for the said case. In response to a timely motion for reconsideration, the said Court on May 31, 2007 again claimed that there was no payment recorded with the Clerk and did affirm the dismissal of the case. On Appeal, # 07-15542, though the Appellate Court (9th circuit) committed fraud in not adjudicating my informal brief, did entertain a letter sent to the said Appellate court, which was a third party letter from Deputy Attorney General of Nevada Susan Stewart to Judge James C. Mahan (presiding judge of said case Alexander Ocasio - v - Yong-Ming Heng et al; 2:06-CV-01187-JCM-RJT - Appeal # 07-15542) dated Dec-21, 2007

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which had a sworn affidavit from a Ms. Melanie Mason, an employee of the Inmate Services Division of the Nevada Dept. Corrections which attested that the payment of the \$11.66 had been made prior to the Court's dismissal of the case; she provided a list of the payments by date and check number which totalled about \$44.00. Ms. Stewart informed Judge Mahon that the payment had been made prior to his dismissal of the case for failure to pay it. Some magic occurred in the appellate Court and they remanded the case based upon that letter and affidavit, and ordered the lower court to reinstate proceedings because the initial partial filing fee was paid prior to dismissal. Accordingly, no clerk of the U.S. District Court for the District of Nevada has been disciplined for failing to credit me and record my payments to the Court, though it resulted in a case dismissal and remand.

Systemic problems exist in which the Clerks of the U.S. District Court have mischaracterized and mistitled my motions in various cases, including my 2254 petition for writ of habeas corpus which has interfered with my due process, such as the exhibits supporting the 2254

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petition were not attached to the Amended 2254 petition though a motion to attach the previously filed exhibits to the amended 2254 petition was filed, the clerk mischaracterized that "motion", which was filed in the proper motion form, as an erroneous "pro se letter", and consequently the Court took advantage of the lie and would not consider the letter, because the Court only recognizes "motions", and therefore the lie prevailed, and the exhibits aforementioned are not attached to the Amended 2254 petition.

Another instance concerning the 2254 amended petition which is identified as 3:07-CV-00225-JCM-UPC, the clerk mischaracterized a motion titled "AFFIDAVIT OF PREJUDICE" and mistitled it as "A MOTION TO REMOVE JUDGE" on the docket, which resulted in camouflaging the AFFIDAVIT OF PREJUDICE in the record and its issues of prejudice and bias, and had the effect to camouflage that issue on an interlocutory appeal and petition of writ of mandamus in the 9th circuit appellate court.

The problems of the Clerks of the U.S. District Court for the district of Nevada are numerous, they selectively choose to receive filing without filing them, which deprives me access to the court and works in collusion with the

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Nevada Dept. of Corrections through internet communications to conspire a campaign to obstruct my efforts through the federal courts.

These issues have been raised in a master judicial misconduct complaint against all the concerned judges of the U.S. district court for the district of Nevada and judges of the 9th circuit, which said complaint # 08-90066 thru 08-90081 also grieved the problems of the Clerks of Court, but those Clerks are considered "non-covered" personnel and the judicial council has no jurisdiction over issues concerning the Clerks. Additionally, the Clerk of the Ninth Circuit will not file the seventy-five or so exhibits submitted with the said master judicial misconduct complaint #90066 08-90066 thru 08-90081 and she is obstructing justice. Secondly, the Clerk of the Ninth Circuit will not withdraw or submit the appeal for withdrawal to a motions panel, in a prematurely filed appeal concerning the said 2254 petition for writ of habeas corpus, Appeal # 08-16153, and therefore the case has been arrested in the Appellate court for over six months; in a conspiracy between the Clerks of the lower U.S. District Court for the District of Nevada

IV-E. And the Clerks of the U.S. Court of Appeals for the Ninth Circuit.

These Clerks are not under the law, no one supervises their misconduct because it is the duty of the defendant, not the Judges of the Court or its judicial council, and as a purposeful result an enemy to due process, a domestic enemy is alive and well as the middleman involved in all court actions, that is the Clerk of the Court, said Clerks are depriving me of access to the courts, due process, and equal protection of the laws within the very action of the case because said Clerks strategically molest key effective filings.

The defendant's failure to enact a numerical reception form of grievance procedure, that will allow me to complain about the misconduct of the Clerks of Court; A procedure that ensures a legitimate investigation by impartial officers of government and will provide a modern, efficient and just administrative forum to resolve said misconduct is illegal and consequently such failure is a hole in the judicial system which has and still is depriving me access to the court, due process, and equal protection of the laws.